

## **REMARKS**

The Final Office Action dated September 22, 2005, has been carefully considered. Claims 15-24 are pending in the present application. Claims 14 and 25-30 are cancelled without prejudice. Claims 1-13 were previously cancelled. Applicants reserve the right to pursue the subject matter of the cancelled claims in one or more related applications.

Reconsideration of the present application in view of the following remarks is respectfully requested.

### **I. REJECTION UNDER 35 U.S.C. § 103 (a)**

Claims 15-24 have been rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent No. 6,168,619 to Dinh *et al.* ("Dinh"). This rejection is traversed.

Dinh cannot be applied as a basis for an obviousness rejection. Pursuant to 35 U.S.C. § 103(c)(1) and M.P.E.P. § 706.02(k), a reference which qualifies as prior art only under one or more of subsections 35 U.S.C. § 102(e), (f), and (g) does not qualify as a prior art reference against an application if: (1) such application was pending on or after December 10, 2004; and (2) the subject matter of the reference and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

Dinh did not issue until after the present application was filed, and thus can only qualify as prior art under 35 U.S.C. § 102(e). The present application was pending on December 10, 2004. In addition, at the time the present invention was made, the inventors of Dinh and the inventor of the present application were subject to an obligation to assign their respective inventions to Quanam Medical Corporation. Pursuant to this obligation, an Assignment from the inventors of the invention in Dinh to Quanam Medical Corporation was recorded in the U.S. Patent and Trademark Office ("USPTO") on November 20, 1998, at Reel 009609, Frame 0939, and an Assignment from the inventor of the present invention to Quanam Medical Corporation was recorded in the USPTO on October 22, 1999, at Reel 010324, Frame 0036.


Thus, Dinh does not qualify as prior art that can be used in 35 U.S.C. § 103(a) rejection. Accordingly, withdrawal of this rejection and allowance of claims 15-24 are respectfully requested.

## II. CONCLUSION

As all rejections are believed to be overcome, all claims are believed to be in condition for allowance. An early notice to that effect would be appreciated. Should the Examiner not agree with the Applicants' position, then a personal or telephonic interview is respectfully requested to discuss any remaining issues and expedite the eventual allowance of the application.

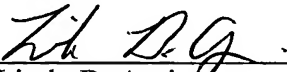
Respectfully submitted,

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Gidon D. Stern

(Reg. No. 27,469)

By: 

Linda B. Azrin

(Reg. No. 44,516)

**JONES DAY**

222 East 41st Street

New York, New York 10017

(212) 326-3939